

**Notice of Allowability**

Application No.

09/711,289

Examiner

Kevin Bates

Applicant(s)

MOUHANNA ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3-17-2004.
2. ☒ The allowed claim(s) is/are 40 and 46 renumbered 1-2.
3. ☒ The drawings filed on 13 November 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Bharat Barot*  
**BHARAT BAROT**  
**PRIMARY EXAMINER**

***Response to Amendment***

This Office Action is in response to a communication made on March 17, 2005.

Claims 40 and 46 are pending in this application.

Claims 7-8, 20-21, and 31-32 are withdrawn from consideration.

Claims 40 and 46 are allowable over prior art.

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 7-8, 20-21, and 31-32, drawn to a method of installing software from a list of servers onto a client, classified in class 717, subclass 176.
- II. Claims 40 and 46, drawn to a distributed server system that uses client capability information to issue actions over the network, classified in class 709, subclass 223.

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as forwarding a client to a third party server or LDC that has software that the client requests. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Stephen Meyer on May 20, 2005 a provisional election was made without traverse to prosecute the invention of II, claims

40 and 46. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-8, 20-21, and 31-32 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Allowable Subject Matter***

Claims 40 and 46 are allowed.

**REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

The Primary Reason for allowance is that the examiner has found that the prior art of record does not teach or suggest or render obvious a method for tracking and using user capabilities in a distributed server system. More Specifically, the prior art does not disclose or teach a distributed server system that includes central and regional servers coupled to a user, where the regional data center is coupled to the user by way of a gateway, and that regional center determines user capabilities from the gateway, selects users based on their user capabilities, and issues a command to the user based on the selected user capabilities. These differences are more clearly defined in the applicants remarks filed on March 17, 2005 on pages 11 through 14. The subject matter is present in the specification and the independent claims 40 and 46.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent No. 6714992 issued to Kanojia, because it discloses using a user profile to choose installable software and target the user for promotions.

U. S. Patent No. 6297819 issued to Furst, because it discloses a gateway tracking user capabilities and installs software to the user according to those capabilities.

U. S. Patent No. 6845396 issued to Kanojia discloses installing software on a user machine from a network server according to user profiles and user selections.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KB

KB  
May 20, 2005

  
**BHARAT BAROT**  
**PRIMARY EXAMINER**